

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

BILLY JESSIE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:10-cv-01292-RBP-RRR
)	
SERGEANT S. FREEMAN, <i>et al.</i> ,)	
)	
Defendants.)	

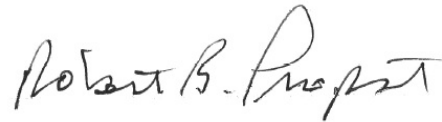
MEMORANDUM OF OPINION AND ORDER OF DISMISSAL

On December 2, 2011, the magistrate judge filed a report recommending that this action be dismissed without prejudice for failure to prosecute. The magistrate judge's recommendation was based upon the plaintiff's failure to comply with or otherwise respond to the order of October 5, 2011. Although the plaintiff was advised of his right to file specific written objections within fifteen days, he has failed to respond to the report and recommendation.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, it is **ORDERED** that this action be and hereby is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

For information regarding the cost of appeal, see the attached notice.

DONE this the 4th day of January, 2012.

A handwritten signature in black ink, reading "Robert B. Propst". The signature is written in a cursive style with a large, looping initial 'R'.

ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk

In Replying Give Number
of Case and Names of Parties

NOTICE TO PRISONERS CONCERNING CIVIL APPEALS

The Prison Litigation Reform Act of 1995 (effective April 26, 1996) now **REQUIRES** that all prisoners pay the Court's \$450 docket fee plus \$5 filing fee (for a total of \$455) when appealing any civil judgment.

If you wish to appeal in a civil case that Act now **requires** that upon filing a notice of appeal you *either*:

- (1) Pay the total \$455 fee to the clerk of the district court from which this case arose;
or
- (2) arrange to have a prison official certify to the district court from which the appeal arose the average monthly deposits and balances in your prison account for each of the six months preceding the filing of a notice of appeal.

If you proceed with option (2) above, the Act requires that the district court order you to pay an *initial partial fee* of at least 20% of the **greater** of either the average monthly deposits or of the average monthly balances shown in your prison account. The remainder of the total \$455 fee will thereafter be deducted from your prison account each month that your account balance exceeds \$10. Each such monthly deduction shall equal 20% of all deposits to your prison account during the previous month, until the total \$455 fee is paid. (If your prison account statement shows that you cannot pay even the required *initial partial fee*, your appeal may nevertheless proceed, BUT THE TOTAL \$455 FEE WILL BE ASSESSED AGAINST AND WILL BE DEDUCTED FROM FUTURE DEPOSITS TO YOUR PRISON ACCOUNT.)

Fees are not refundable, regardless of outcome, and deductions from your prison account will continue until the total \$455 fee is collected, even if an appeal is unsuccessful.

John Ley
Clerk